

REMARKS

This Amendment is in response to the Official Action dated August 25, 2005. Claims 1 to 26 are pending in the present application, with claim 1 amended and claims 24 to 26 newly added.

Claim 1 has been amended to be in product-by-process form, and claims 24 to 26 have been added to further clarify the present invention. The amendment and newly added claims are believed to add no new matter.

Initially, Applicant acknowledges the Official Action's indication of allowability of dependent claim 10. In accordance with this indication, claim 10 has been rewritten as independent claim 26 to include all the limitations of claim 10 and all the pertinent limitations of unamended base claim 1. Therefore, newly added claim 26 is believed to be allowable, and its allowance is respectfully requested.

Further, as a preliminary matter, in response to the Official Action's objection to the Abstract for the use of legal phraseology, the Abstract has been replaced with an amended Abstract that removes all legal phraseology. Accordingly, withdrawal of this objection is respectfully requested.

Still further, as another preliminary matter, the undersigned wishes to thank Examiner Eric Keasel for the courtesies extended by him during an interview at the United States Patent and Trademark Office on December 9, 2005.

During the interview, the undersigned articulated applicant's position that the unamended claims distinguished over the cited prior art, namely U.S. Patents 3,848,779 (Stull); 5,377,858 (Morris); 3,993,208 (Ostrowsky); 3,900,123 (Darlington); 5,678,863 (Kusz); and 5,160,057 (Fitjer), by virtue of at least the features of (1) the join plane and (2) the steps that extend along the join plane over at least a major part of the distance between the neck and the periphery of

the end wall that were recited in the unamended claims. In this regard, the undersigned showed the Examiner a sample receptacle in accordance with the present invention.

Examiner Keasel acknowledged that the cited art do not expressly mention or disclose the features of a join plane or one or more steps that extend along the join plane over at least a major part of the distance between a neck and a periphery of an end wall of a receptacle. Nevertheless, Examiner Keasel was concerned that the join plane could be any arbitrary plane.

However, as explained by the undersigned and described in paragraphs [0032] to [0033] of the specification, the join plane is not arbitrary, but a deliberate feature formed by the process of using a mold of two portions configured such that when a plastic material is introduced into the mold, a body having a periphery and a neck are formed with a join plane. In the process, one or more steps that extend along the join plane over at least the major part of the distance between the neck and the periphery of the end wall are formed along with the join plane. Moreover, the join plane may be in the form of a bead of material projecting on the outside surface of the body.

To this end, the Examiner acknowledged that none of the cited art discloses such a process of forming a receptacle including a join plane or a join plane in the form of a bead of material projecting on the outside surface of a body.

To clarify a statement made in the Substance of Interview section of the Interview Summary forwarded by Examiner Keasel, although the mold may be made of two parts, the receptacle itself is molded as one whole along with the join plane and the one or more steps of the present invention.

The foregoing summary is to be construed as the undersigned's statement of the substance of the December 9, 2005 interview in compliance with M.P.E.P. § 713.04.

Turning now to the merits of the Official Action, claims 1, 4-7, 14-16, 19-21 and 23 have been rejected under 35 U.S.C. § 102(b) over Stull; claims 1, 2, 4-7, 9, 11, 12, 14-17, 19, 20 and 21 have been rejected under U.S.C. § 102(b) over Morris; claims 1, 4-8 and 18-22 have been rejected under U.S.C. § 102(b) over Ostrowsky; claims 1-9, 11, 13 and 18-21 have been rejected under U.S.C. § 102(b) over Darlington; claims 1, 4, 5, 9 and 18-21 have been rejected under U.S.C. § 102(b) over Kusz; claims 1, 2, 4, 5 and 18-21 have been rejected under U.S.C. § 102(b) over Fitjer; and claims 2 and 3 have been rejected over 35 U.S.C. § 103(a) over Kusz. The rejections are respectfully traversed.

According to amended claim 1, the present invention is a receptacle comprising a body including an end wall having a periphery and a neck connected to the end wall. The body and neck are recited as being made by the process of using a mold of two portions configured to define therebetween a join plane. In the process, plastic material is introduced into the mold to form the body and neck. The mold is also configured to provide at least one step along the end wall that extends along the join plane over at least a major part of the distance between the neck and the periphery of the end wall.

As discussed above, the cited art, either alone or in combination, does not disclose or suggest a receptacle made by such a process. In particular, none of the cited art discloses any processes for making receptacles at all, let alone the process of the present invention for making a receptacle with a join plane and steps that extend along the join plane over at least a major part of the distance between a neck and the periphery of an end wall.

Accordingly, withdrawal of the § 102(b) rejections and § 103(a) rejection is respectfully requested.

As for newly added claims 24 and 25, these claims are directed to a receptacle including a body having an end wall, in

which the end wall has a periphery, and a neck connected to the end wall. The body has a cross-section oblong in shape that defines a major axis. The body includes a bead of material that projects on an outside surface of the body that extends along a plane containing the major axis. The end wall includes at least one step that extends in the plane over at least a major part of the distance between the neck and the periphery of the end wall. The bead of material is a physical property of the claimed receptacle that defines the plane along which one or more steps extend over at least a major part of the distance between the neck and the periphery of the end wall.

As previously discussed, none of the cited art discloses or suggests a receptacle having a body that includes the feature of a bead of material that projects on an outside surface of the body that extends along a plane containing the major axis. Moreover, none of the cited art discloses or suggests the feature of at least one step that extends along a plane defined by the bead of material.

For at least these reasons, newly added claims 24 and 25 are also believed to be allowable over the cited prior art, and their allowance is respectfully requested.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

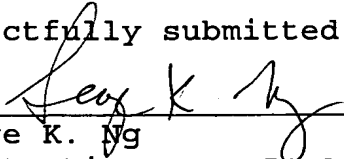
Application No.: 10/645,430

Docket No.: LOREAL 3.0-057

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: January 24, 2006

Respectfully submitted,

By 
George K. Ng
Registration No.: 54,334
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant

625506_1.DOC